

September 26, 1950
Op. No. 50-213

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Wilson
Mr. Wes Polley
County Attorney
Cochise County
Courthouse
Bisbee, Arizona

Attention: George D. Allen, Chief Deputy

Dear Mr. Polley:

This is in answer to your letter of September 21, 1950 enclosing a letter from Mr. F. J. Benedict of Benson in which he asks advice as follows:

"We have registered in our high school, students from the Cochise School District. In charging the school district tuition for these high school people, should we charge them the average cost per high school student in Cochise County less the amount of the State and County apportionment, or should it be the average cost per pupil in Benson Union High School District less the State and County apportionment."

In your letter of inquiry you state that his question is "regarding the charge for tuition of high school students from another district".

As you know, there is a difference between the amount of tuition which a high school district may charge pupils who live in the same county but not in any high school district, and pupils who live in a district where a high school is available who wish to attend a high school in a different district. We are a little uncertain as to which class of pupils Mr. Benedict's letter refers to, and therefore include our opinion on both situations.

Under Section 54-908 ACA 1939 students living within the county but not in any high school district may be admitted to any high school within the county on the same conditions as residents, upon paying a fee fixed by the high school board, which fee shall not exceed the average cost per pupil of all high schools of the county, after deducting the per capita allocation from state and county. Note that the amount which the board may charge in this case is only the excess over and

above the regular per capita allocation represented by the average cost of all high schools in the county--not the cost in the particular high school which the students may choose to attend.

In the second instance, Section 54-616 ACA 1939, provides that any student who is precluded by lack of adequate transportation facilities or by distance from attending a high school in the district of his residence may secure a certificate of educational convenience if so authorized by the county school superintendent, which certificate will permit him to attend a high school in another district or county or even in another state. In this event, the board of the high school which the pupil is permitted to attend may charge tuition under its general powers. Section 54-907 ACA 1939; Section 54-416 ACA 1939; Section 54-502 ACA 1939. However, if tuition is charged, the county school superintendent may pay to the high school of the pupil's attendance, on account of such tuition, an amount not exceeding the per capita allocation of the high school fund to the district (or county) which is the student's residence.

In other words, if, as we assume from Mr. Benedict's letter, the children who live in Cochise school district are actually within the Willcox Union High School District, but because of lack of transportation facilities or because of distance, cannot conveniently attend the Willcox high school, they may apply for the certificate of convenience provided for in Section 54-616 ACA 1939 to attend at Benson, and if granted, the county school superintendent may issue a warrant to Benson Union High School District in an amount not exceeding the per capita allocation of the Willcox Union High School district.

We trust this answers your inquiry,

Very truly yours,

FRED O. WILSON
Attorney General

LORNA E. LOCKWOOD
Assistant Attorney General

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